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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 KINDERSTART.COM LLC, a California  
13 limited liability company, on behalf of itself and  
14 all others similarly situated,

15 Plaintiffs,

16 v.

17 GOOGLE, INC., a Delaware corporation,  
18 Defendant.

Case No. C 06-2057 JF

**SUPPLEMENTAL DOCUMENT IN  
SUPPORT OF PLAINTIFFS'  
OPPOSITION TO DEFENDANT'S  
MOTION TO DISMISS UNDER FED. R.  
CIV. P. 12(b)(6)**

Judge: Hon. Jeremy Fogel  
Date: October 27, 2006  
Time: 1:30 p.m.  
Courtroom: 5th Floor, Room 3

19 Plaintiff KinderStart.com LLC ("KinderStart"), by and through its attorney, hereby  
20 requests the Court to consider the attached Declaration of Daniel D. Savage, attached hereto as  
21 Exhibit 1. The undersigned counsel represents that the substance of the attached declaration was  
22 received only yesterday, October 26, 2006. Counsel to Google, Inc. was advised by telephone  
23 today that plaintiffs would be filing a supplemental declaration but did not indicate whether it  
24 would accept its filing with the Court.

25 This request by KinderStart is to enable the Court to further assess one or more of the  
26 following: (1) the merits of the pending motion to dismiss this action under Federal Rule of  
27 Civil Procedure 12(b)(6); (2) the availability and eligibility of one or more class representatives;

28 REQUEST RE SUPPLEMENTAL DECLARATION  
IN SUPPORT OF PLAINTIFFS' OPPOSITION TO  
MOTION TO DISMISS UNDER RULE 12(b)(6)

1 and (3) the possibility of allowing, if deemed suitable or necessary in the Court's discretion, a  
2 further amendment<sup>1</sup> of the complaint.

3 Dated: October 19, 2006

GLOBAL LAW GROUP

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5 By: /s/ Gregory J. Yu

6 Gregory J. Yu, Esq.

7 Attorney for Plaintiff KinderStart.com LLC and  
8 for the proposed Class and Subclasses  
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26 <sup>1</sup> In the Ninth Circuit, courts decide on further leaves to amend a pleading using factors such as  
27 "the presence or absence of undue delay, bad faith, dilatory motive, repeated failure to cure  
28 deficiencies by previous amendments, undue prejudice to the opposing party and futility of the  
proposed amendment." *Moore v. Kayport Package Express*, 885 F.2d 531, 538 (9th Cir. 1989).